

Annex 1 – Annual Action Programme for Azerbaijan 2012 – Part 1

1. IDENTIFICATION

Title/Number	Framework programme in support of EU-Azerbaijan Agreements (ENPI/2012/023-411)		
Total cost	EUR 19.5 million		
Aid method / Method of implementation	Project approach – direct centralised management and joint management		
DAC-code	15110	Sector	Public sector policy and administrative management

2. RATIONALE

2.1. Sector context

This framework programme is fully in line with the EU-Azerbaijan European Neighbourhood Policy (ENP) Action Plan and the National Indicative Programme (NIP) 2011-2013, prioritizing good governance, rule of law and fundamental freedoms, public administration reform and facilitation of the new agreements offered to Azerbaijan in the context of the European Neighbourhood Policy and the Eastern Partnership. These agreements include an EU-Azerbaijan Association Agreement (AA), Visa Facilitation and Readmission agreements, as well as establishing a Deep and Comprehensive Free Trade Area (DCFTA). Currently, the establishment of a DCFTA remains a long-term goal since the relevant conditions for opening negotiations have not been met, i.e. first and foremost Azerbaijan's accession to the World Trade Organisation.

The Comprehensive Institution Building programme (CIB), an agreement-driven programme, will assist Azerbaijan with institution building for a number of core institutions central in preparing the ground for and implementing the new EU-Azerbaijan agreements. CIB assistance will be framed according to three Institutional Reform Plans (IRPs), currently at different stages of development. The Memoranda of Understanding on the NIP and the CIB were signed by the Government of Azerbaijan in January 2011, further evidencing the Government's interest in European integration. Coordination of the CIB programme was assigned to the Ministry of Foreign Affairs.

Negotiations on an Association Agreement (AA) are under way since July 2010. This agreement will widen and deepen EU-Azerbaijan cooperation by promoting further convergence towards EU *acquis* across a wide range of sectors. Talks on Visa Facilitation and Readmission agreements started on 1 March 2011, further deepening the prospects for the bilateral relations. When the right conditions will be met, the EU and Azerbaijan can start negotiations on a DCFTA providing for mutual market access.

As another initiative stemming from the Eastern Partnership policy, the Pilot Regional Development Programme (PRDP) was put into place in 2011 to assist the Eastern Partnership countries in reducing disparities between the different regions of their countries. PRDP intends to assist in the development of projects on advancing the economic, social and territorial cohesion of the Eastern Partnership countries based on EU best practices. In total,

EUR 9 million has been earmarked for Azerbaijan for the implementation of PRDP for the programming years 2012-2013. The objectives of this programme coincide with the efforts of Azerbaijan in diversifying the country's economy. The PRDP programme is overseen by the Ministry of Economic Development.

This framework programme will consist of three components: (I) Implementation of technical assistance and demand driven Twinning operations to support areas of cooperation under the EU-Azerbaijan ENP Action Plan, (II) Implementation of the Comprehensive Institution Building programme (CIB) to support preparation and implementation of the new EU-Azerbaijan agreements, and (III) Implementation of the Pilot Regional Development Programme (PRDP).

In addition to advancing the political agenda in respect to EU integration, this framework programme also supports the implementation of the following governmental priorities and strategies:

- The "State Programme on Poverty Reduction and Sustainable Development for 2008-2015";
- The "State Programme on socio-economic development of the regions in 2009-2013";
- The "State Programme on improvement of the Azerbaijani justice for 2009-2013";
- The "National Action Plan on Protection of Human Rights in the Republic of Azerbaijan";
- The "National Action Plan on Struggle against Human Trafficking (2009-2013)";
- The Action Plan for Legal Approximation (2010-2012), foreseeing the approximation of more than 163 laws with 127 EU directives.

2.2. Lessons learnt

The **Twinning instrument** is working well in Azerbaijan with one of the highest implementation rates in the region. Direct cooperation with EU Member State public administrations through the Twinning instrument is in fact well appreciated and effective. At present, 21 twinning projects are under different stages of implementation. 8 have been completed, 7 are on-going, 2 are at the contracting stage, 2 will be awarded soon, and 1 is in the pipeline. Therefore continued use of this instrument is encouraged, and an increased allocation of EU funds to this effect is envisioned in this framework programme. An increasing demand for TAIEX assistance also indicates a growing interest of the Government in focused assistance.

To ensure that the quality and focus of Twinning interventions remains at a high level, at the initiative of the EU Delegation, an improved joint programming procedure with the Government has been put into place. Even though Twinning is a demand driven exercise there is in fact a need to better focus and prioritise areas of cooperation even within this instrument.

Concerning the CIB, delays have been encountered in developing and approving the Institutional Reform Plans (IRPs). These delays have been mainly caused by the rather lengthy approval procedures of the Government of Azerbaijan. The experience that the national CIB coordinator has made in respect to the official approval of IRP3 can be expected to facilitate the approval processes of IRP1 and IRP2. The EU Delegation will continue to

address all levels in the Government to promote the timely approval of all IRPs, as well as commitment to the envisaged reforms.

2.3. Complementary actions

All activities under this programme will be closely coordinated with, and will build on the results of interventions and support by other donors in the relevant sectors. In order to ensure complementarity of actions and avoid duplications of efforts with respect to future CIB activities, the EU Delegation closely involved relevant civil society organisations, international organisations and EU member states in the formulation of the Institutional Reform Plans. With an aim to increase aid effectiveness, this consultation resulted in the here proposed joint management of CIB funds with the Council of Europe, the Organisation for Security and Cooperation in Europe (OSCE) and the International Organization for Migration (IOM).

The foreseen interventions will complement ongoing and planned budget support operations in the fields of energy, justice, agriculture, rural development and public finance management, as well as Twinning, and technical assistance initiatives funded or to-be-funded by the EU through ENPI. In more detail, this programme is designed to be in full complementarity to the Justice Sector Budget Support operation under the AAP 2008 in view of the specific nature of the supported IRP2 reform plan targeting different domains of the Judiciary. Under the overall CIB umbrella, funds under this programme mainly aim at assisting the implementation of IRP2. Consequently, these funds complement a previous allocation of EUR 3 million under the AAP 2011 which is foreseen to mainly assist in the implementation of IRP3 and the set-up of a CIB coordination mechanism. The remaining CIB funds are foreseen be allocated under the future AAP 2013 to mainly assist in the implementation of IRP1.

2.4. Donor coordination

In the absence of a Government-led donor coordination mechanism, the EU Delegation has initiated donor coordination meetings on a regular basis. Currently, six thematic donor coordination areas exist on non-oil sector & trade, agriculture, environment, health, energy, and public finance management & macro-economics. At the suggestion of the EU Delegation, the establishment of two additional thematic areas on education and social affairs is currently being scrutinised. Presently, the Government is only participating in ad-hoc manner in some of the subgroups of these thematic areas, e.g. in the veterinary and dairy subgroup of the thematic area on agriculture.

International organisations, diplomatic missions and international financial institutions are invited to the relevant donors meetings. A key outcome of these meetings is sharing information and consultation on sector specific issues, which has reduced duplications and overlapping. The EU Delegation is also organising quarterly cooperation coordination meetings with the EU member states. Moreover, EU member states and relevant international organisations have been consulted on the development of the individual Institutional Reform Plans under the CIB programme. Involvement of these and other stakeholders as observers to the respective CIB Steering Committees is envisaged.

3. DESCRIPTION

3.1. Objectives

The overall objective of this framework programme is to build the institutional capacity of selected public administration institutions in Azerbaijan to implement reforms under the

current EU-Azerbaijan agreements and the future agreements offered under the Eastern Partnership.

The specific objectives of this programme are the following:

(I) to support the relevant institutions within the Azerbaijani administration to comply effectively with the commitments set forth in the EU-Azerbaijan ENP Action Plan and the Partnership and Cooperation Agreement (PCA)

(II) to ensure effective institutional-building of a limited number of core institutions central in preparing the ground for and implementing the future EU-Azerbaijan Association Agreement, including visa liberalization and readmission dialogue

(III) to address regional, social and economic disparities in order to enhance competitiveness, job creation and inclusive growth

3.2. Expected results and main activities

Expected results

I. Implementation of the ENP Action Plan

Public administration of Azerbaijan is strengthened and able to meet European standards and implement other measures foreseen by bilateral agreements between Azerbaijan and the EU.

II. Implementation of CIB

Core governmental institutions identified for the CIB have been strengthened through the CIB programme and are better able to sustain the commitments taken under the ongoing negotiations on an EU-Azerbaijan Association Agreement and visa facilitation and readmission agreements.

III. Implementation of PRDP

Projects have been developed with an objective to advance the economic, social and territorial cohesion of the country and towards the reduction of regional disparities within the country.

Main activities

I. Implementation of the ENP Action Plan

This component will provide the necessary resources to continue the EU-Azerbaijan cooperation, based on the Partnership and Cooperation Agreement (PCA) and the EU-Azerbaijan ENP Action Plan, through the Twinning instrument, as well as with the provision of necessary technical assistance and policy advice. The Programme Administration Office (PAO) at the Ministry of Economic Development will also continue to be supported by dedicated technical assistance. The use of the Twinning instrument is however not exclusively reserved for this component.

II. Implementation of CIB

The CIB funds allocated to this framework programme will be spent on the basis of three to-be-adopted governmental Institutional Reform Plans (IRPs). These IRPs will focus on deepening of trade and economic integration (IRP1); the rule of law, human rights &

migration (IRP2); and training of civil servants on EU affairs (IRP3). Without excluding assistance to the implementation of IRP1 and IRP3, this component has a particular emphasis on providing assistance towards implementation of IRP2. IRP2 will provide institution building assistance in the field of human rights, rule of law, border management and management of migration, including document security and other so-called soft security measures.

III. Implementation of PRDP

The funds allocated to this component will assist the Government of Azerbaijan in advancing its efforts for the diversification of the economy, with a focus on the country's most deprived regions and/or population groups. Policy advice and technical assistance will be provided in areas related to socio-economic development of the regions, to the prioritisations of interventions and to preparation of feasibility studies for selected strategic investment projects. The EU Delegation furthermore considers working with civil society organizations on the preparation of local community development plans and on financing pilot projects, while promoting gender equality issues.

3.3. Risks and assumptions

This programme assumes that Azerbaijan will continue to reform its administration and is committed to its overall reform path in the context of European integration. There is a general risk that Azerbaijan may shift away from this path, which at the moment remains low. There is furthermore a risk that the negotiations on the new agreements will slow down. This risk can be mitigated by strengthening the capacities of the institutions involved in order for them to better understand the benefits of the Eastern Partnership for the country.

The CIB component of the current programme is built on the assumption that the three IRPs will be developed and endorsed by the Government during 2012. However, there is still a risk for further delays, as described in the lessons learnt above. To mitigate this risk, the EU Delegation is actively supporting the Government through technical assistance and by pursuing a high-level results-oriented dialogue with decision makers.

The PRDP component is built on the assumption that the regional socio-economic policy will remain high on the agenda of the Government of Azerbaijan.

3.4. Crosscutting Issues

In the preparation and implementation of projects under this framework programme, special attention will be paid to ensure gender equality, sustainable environment, good governance and respect for human rights.

As referred to in the 2011 European Neighbourhood Policy Progress Report for Azerbaijan (May 2012), the country needs to make significant further efforts to meet the Action Plan commitments regarding democracy, including the electoral processes, the protection of human rights and fundamental freedoms and the independence of the judicial system. A major setback on the democratisation and human rights front could be noted in the past and signalled non-compliance with the commitments taken towards the EU and in the framework of the Council of Europe and the Organisation for Security and Co-operation in Europe (OSCE).

In response, the CIB component aims amongst others to introduce improvements in the human rights and democracy situation in Azerbaijan. Starting from the key problem of the Government's non implementation of already existing human rights legislation, IRP2

implementation provides the opportunity to expose and sensitise the staff of targeted institutions such as the Judicial-Legal Council, the Ministry of Justice, the Ministry of Internal Affairs, the Central Election Commission, the Ombudsman and the Commission for Combating Corruption to a broader human rights and democracy agenda.

Along this line, (i) for both the Judicial Legal Council, the Ministries of Justice and Internal Affairs, the focus of support will be to improve implementation of current laws and therefore ensure human rights matters already in national law including better citizen's access to relevant legal documents etc. (ii) Regarding the Central Election Committee, enhanced access to information for citizens on their rights and final awareness raising on their rights will be a central point of efforts. (iii) For the Ombudsman, the focus of support will be geared towards the improvement of staff capacity to better implement the national Preventive Mechanism on Torture and Ill treatment (OPCAT).

3.5. Stakeholders

The Ministry of Economic Development in its role as the National Coordinator for EU Assistance to Azerbaijan coordinates the various programmes and projects funded under the National Indicative Programme (NIP) for the country. In this, he is assisted by the ministry's Programme Administrative Office (PAO), which oversees the programming and the implementation of the Twinning instrument for the Government of Azerbaijan.

The Ministry of Foreign Affairs, in its capacity as national CIB Coordinator, and the Ministry of Economic Development are the key interlocutors for the development of the CIB programme. The Ministry of Justice was nominated the lead institution of IRP2, while the Azerbaijan Diplomatic Academy and the Civil Service Commission will be the sole beneficiaries of IRP3. As the CIB programme is also open to funding by other donors, e.g. EU member states and international organisations, the list of key stakeholders could increase over time. Non-state actors, EU member states and relevant international organisations continue to be consulted in the formulation of IRP1 and IRP2. Institutional capacity of the CIB beneficiaries has been self assessed by the Government of Azerbaijan when the CIB framework document was drawn up.

Several institutions may be actively involved in the design and implementation of PRDP activities, aside from the PRDP focal point, the Ministry of Economic Development. Local authorities will also be involved in regional prioritisation, project identification and project development processes. Non-state actors and private organisations could also be involved to the implementation of activities and benefit from the results of the programme.

4. IMPLEMENTATION ISSUES

4.1. Method of implementation

Direct centralised management

Projects under Component I (Implementation of the ENP Action Plan) will be implemented via direct centralised management through twinning and service contracts.

Projects under Component II (Implementation of CIB) will be implemented via direct centralised management through service contracts, twinning, grant contracts, and, where appropriate, with supply contracts. The provision of supplies is limited to EU norm driven equipment and upgrading of specialised infrastructure, as per the relevant CIB guidelines.

Projects under Component III (Implementation of PRDP) will be implemented via direct centralised management through service contracts, twinning, and grant contracts.

Joint management

Projects under Component II are envisaged to be implemented via joint management through the signature of standard contribution agreements, in accordance with Article 53d of the Financial Regulation. Preliminary discussions have been held with the OSCE, the Council of Europe, and the International Organization for Migration (IOM). These international organisations comply with the criteria provided for in the applicable Financial Regulation. The Commission has concluded framework agreements with all three organisations.

Although IRP2 is still in the phase of development, discussions and agreement on reform priorities are well advanced and a general consensus has been reached in respect to the areas of interventions, the beneficiary institutions, as well as a larger number of concrete reform activities. It is expected that the final IRP2 will be adopted by the Government in the course of 2012.

The three above quoted international organisations qualify for joint management for the following reasons:

- All three organisations have specific mandates and exclusive expertise that cover reform priorities identified for IRP2.
- Azerbaijan's membership in these organisations and the country's declared commitment to their principles and standards will facilitate the implementation of the respective reforms and provide for more sustainable results.

International Organisation	Tentative fields of intervention
OSCE	Training of judges, support to the penitentiary system, training of police, strengthening the election system, other fields relevant to the promotion of human rights and the rule of law
IOM	Management of legal and illegal migration, border management, other fields relevant to the promotion of human rights and the rule of law
Council of Europe	Support to anti-corruption, monitoring of and capacity building in fields relevant to Council of Europe standards taken by Azerbaijan in the areas of human rights and the rule of law.

The change of management mode constitutes a substantial change except where the Commission "re-centralises" or reduces the level of tasks previously delegated to the beneficiary country, international organisation or delegated body under, respectively, decentralised, joint or indirect centralised management.

4.2. Procurement and grant award procedures

1) Contracts

All contracts implementing the action must be awarded and implemented in accordance with the procedures and standard documents laid down and published by the Commission for the implementation of external operations, in force at the time of the launch of the procedure in question.

Participation in the award of contracts for the present action shall be open to all natural and legal persons covered by the European Neighbourhood and Partnership Instrument (ENPI) Regulation (Regulation (EC) N° 1638/2006). Further extensions of this participation to other natural or legal persons by the concerned authorising officer shall be subject to the conditions provided for in article 21(7) of the ENPI Regulation.

2) Specific rules for grants

The essential selection and award criteria for the award of grants are laid down in the Practical Guide to contract procedures for EU external actions. They are established in accordance with the principles set out in Title VI 'Grants' of the Financial Regulation applicable to the General Budget. When derogations to these principles are applied, they shall be justified, in particular in the following cases:

- Financing in full (derogation to the principle of co-financing): the maximum possible rate of co-financing for grants is 80% of total eligible costs. Full financing may only be applied in the cases provided in Article 253 of the Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of the Financial Regulation applicable to the General Budget.
- Derogation to the principle of non-retroactivity: a grant may be awarded for an action which has already begun only if the applicant can demonstrate the need to start the action before the grant is awarded, in accordance with Article 112 of the Financial Regulation applicable to the General Budget.

3) Specific rules on joint management

All contracts implementing the action are awarded and implemented in accordance with the procedures and standard documents laid down and published by the relevant International Organisation.

4.3. Budget and calendar

The indicative budget of this Framework Programme is EUR 19,5 million, including:

Categories	EU funding (EUR)
Component I (<i>ENP AP</i>)	10.5 million
Component II (<i>CIB</i>)	7 million
Component III (<i>PRDP</i>)	2.0 million
TOTAL	19,5 million

This budget includes funds for evaluation, audit and visibility activities.

The indicative breakdown of the budget for each implementation modality is as follows:

1.	Service contracts	EUR 3,5 million
2.	Grant / Twinning contracts	EUR 10 million
3.	Joint Management	EUR 6 million
TOTAL		EUR 19,5 million

The Government of Azerbaijan is expected to contribute to the implementation of this framework programme financially or in kind. A minimum contribution of 20% is expected when EU funding is used to purchase supplies under CIB, in accordance with the CIB framework document for Azerbaijan. The international organisations are expected to co-finance the activities agreed under the respective contribution agreements, from their own resources and/or from other sources.

The foreseen operational duration is 48 months as from the entry into force of the Financing Agreement.

In terms of calendar, the development of the twinning fiches and the calls for proposals will tentatively be realised in the course of year n+1 and n+2 with "n" meaning the year of entry into force of the Financing Agreement. Twinning activities are expected to end in year n+4. Procurement procedures for both grants and services are expected to be launched in the year n+1. Activities are expected to cease in year n+4. Conclusion and implementation of contribution agreements are expected to take place over the same period. Contribution agreements will indicatively be signed within year n+1, while implementation will be finalised within year n+4.

4.4. Performance monitoring

The Commission may carry out Results Oriented Monitoring (ROM) via independent consultants, starting from the sixth month of project activities, which will be finalised at the latest 6 months before the end of the operational implementation phase.

For overall monitoring of the implementation of the CIB programme, it is envisaged to set up a Steering Committee, to involve all national stakeholders and donors, as well as all relevant project representatives. Progress on the CIB is also monitored in the annual EU-Azerbaijan sub-committee on justice, rule of law and human rights. Progress on twinning activities are reviewed by the EU, the beneficiary and the implementing member state administration in the framework of regular steering committee meetings.

4.5. Evaluation and Audit

Evaluation and audit will be decided by the European Commission on a case-by-case basis and will be carried out with the support of technical advice of external consultants recruited by the Commission. In case of joint management, and where applicable, the provisions in the relevant framework agreement(s) signed with the international organisation(s) will apply.

4.6. Communication and visibility

Each project prepared and contracted under this framework programme will have its own communication and visibility component and budget, according to the Communication and Visibility Manual for EU External Actions. In case of joint management, and where

applicable, the provisions in the relevant framework agreement(s) with the international organisation(s) will apply.